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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 MARVIN HARRIS,

12 Plaintiff,

13 v.

14 THERESA CISNEROS, FICHES, JOHN
15 DOE, CHARLES RETTIG, STEVEN
16 MUNCHIN, and QUELITA S.
BOURGEOLE,

17 Defendants.
18

Case No. 1:22-cv-0721 JLT HBK

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF’S MOTION TO PROCEED IN
FORMA PAUPERIS

(Docs. 2, 9)

19 Marvin Harris initiated this action proceeding *pro se* by filing a civil rights complaint
20 against Theresa Cisneros, Fiches, John Doe, Charles Rettig, Steven Munchin, and Quelita S.
21 Bourgeole and a motion to proceed *in forma pauperis* on June 14, 2022. (Docs. 1, 2.)

22 The magistrate judge issued Findings and Recommendations Plaintiff’s motion to proceed
23 IFP be denied because Plaintiff has at least three cases dismissed that qualify as a strike under
24 Ninth Circuit caselaw prior to filing his lawsuit on December 27, 2021. (Doc. 9 at 5-6.)
25 Therefore, the magistrate judge found Plaintiff is subject to the three strikes bar under 28 U.S.C. §
26 1915(g). (*Id.*) The magistrate judge also found the allegations in Plaintiff’s complaint do not
27 satisfy the “imminent danger of serious physical injury” exception to Section 1915(g), even when
28 liberally construing Plaintiff’s complaint. (*Id.* at 6.)

1 The Findings and Recommendations served on Plaintiff contained a notice that any
2 objections to the were due within fourteen days. (Doc. 9 at 6.) Plaintiff was also “advised that
3 failure to file objections within the specified time may result in the waiver of rights on appeal.”
4 (*Id.* at 6-7, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014); *Baxter v. Sullivan*,
5 923 F.2d 1391, 1394 (9th Cir. 1991).) Plaintiff has not filed an objection, and the time to do so
6 has expired.

7 According to 28 U.S.C. § 636(b)(1)(C), the Court conducted a *de novo* review. Having
8 carefully reviewed the matter, the Court concludes the Findings and Recommendations are
9 supported by the record and by proper analysis. Thus, the Court **ORDERS**:

- 10 1. The Findings and Recommendations issued on June 29, 2022 (Doc. 9) are
11 **ADOPTED** in full.
- 12 2. Plaintiff’s motion to proceed in forma pauperis (Doc. 2) is denied.
- 13 3. Within 30 days from the date of service of this order, Plaintiff **SHALL** pay in full
14 the \$402.00 filing fee if he wishes to proceed with his action.
- 15 4. Plaintiff is advised that failure to pay the required filing fee as ordered will result
16 in the dismissal of this action without prejudice.

17
18 IT IS SO ORDERED.

19 Dated: **July 22, 2022**


UNITED STATES DISTRICT JUDGE